UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

STEVEN KNURR, Individually and on Behalf of All Others Similarly Situated,	Plaintiffs,	Civil Action No. 16-CV-1031
versus		
ORBITAL ATK, INC., et al,	Defendants.	June 7, 2019

The above-entitled Motion Hearing was heard by the Honorable T.S. Ellis, III, United States District Judge.

A P P E A R A N C E S

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P R O C E E D I N G S

THE COURT: Good morning. You may call the next matter, please.

THE DEPUTY CLERK: The Court calls civil case Steven Knurr versus Orbital ATK. Case No. 2016-CV-1031.

May I have appearances, please? First for the plaintiff.

MR. BARZ: Good morning, Your Honor. Jim Barz on behalf of the plaintiffs.

THE COURT: All right. And who will be heard today on behalf of the plaintiffs?

MR. BARZ: Your Honor, I'll be sharing time with my colleague, Mr. Pintar, from the settlement department. I'll be addressing any questions about the litigation, he'll be addressing the factors regarding settlement approval.

THE COURT: All right. And who is going to be addressing the fee?

MR. BARZ: I'll address the fee.

THE COURT: And Mr. Reilly is here.

MR. REILLY: Yes, Your Honor.

THE COURT: Good morning.

MR. REILLY: Good morning.

THE COURT: And good morning, sir. You're here for?

MR. ROBERTS: Lyle Roberts from Shearman and Sterling on behalf of the defendants, Your Honor.

THE COURT: You really don't have a dog in this hunt. There's a settlement that you-all have reached and we're now talking about how those -- that settlement amount, the spoils, how they're going to be divided, and your client doesn't care.

MR. ROBERTS: Well, Your Honor, we support, obviously, the approval of the settlement.

THE COURT: Yes. But I'm talking about the fee and that sort of thing. You don't care what they do with the 108 million.

MR. ROBERTS: That's between the Court, the class, and the plaintiffs, Your Honor.

THE COURT: Right. Good morning to you, sir.

All right. The other gentleman, are you here for the arraignment?

INTERPRETER: Yes, Your Honor.

(Discussion off the record.)

THE COURT: All right. We don't need to spend very much time. You-all have submitted very helpful briefs. We don't need to spend a lot of time on the final approval. I have preliminarily reviewed it, and, of course, that's why it went out. But it might be helpful, since this is now on the record, at this hearing, to have a brief summary of why I should finally approve this as a fair, sufficient, and reasonable settlement. That is the 108 million.

And it might be helpful too if you would summarize, again, what this involved. This involved statements by the defendant that concealed the fact that the expense of manufacturing ammunition in Louisiana was far greater than what was revealed. And I think, my recollection is, that there was not a lot of dispute about that. The real dispute focused on who knew when and whether those people who knew were people who would be caught under 10b-5.

Do I have that about right?

MR. BARZ: Yes, you do, Your Honor.

THE COURT: Let me hear from you briefly, just to put this in context, this hearing today.

MR. BARZ: Sure, Your Honor. And then let me summarize, as you've set out, the allegations in this case.

In this case, we had alleged that when the company bid out for the Lake City contract, the contract that they had done for over ten years, they concealed from the public that this bid was roughly a billion dollars below their historical cost to manufacturing. Instead, they touted it as a great success and that it was going to be profitable.

We allege that this hurt two sets of folks. One was, Orbital Science's shareholders, who were about to enter into a merger with Alliant. So those folks, we alleged, were undercompensated in the merger. Had they known that they were buying into a company that was about to incur a $400 million

loss approximately, they would have negotiated a better deal for the exchange rate of their shares from their old company and the shares of the new company. Those are our Section 14 claims, which were the non-fraud negligence based claims.

The second set of claims we have is that after the merger, when the company Orbital ATK, as it was renamed, began issuing its post-merger financial statements, they continued to report the contract as profitable.

Mentioned that they were achieving substantial savings in production and making a profit on that contract and spoken in generally favorable terms about it.

Then in August of 2016, as we alleged, the truth was revealed when the company came out and said, in fact, they were going to have to restate their prior financial statements to record this $400 million loss.

We, at that time, alleged Section 10b fraud claims against several of the individuals who made those statements and also the company. If Your Honor recalls, Your Honor dismissed the individuals, found that the plaintiffs had failed to sufficiently allege Scienter on their behalf because the company had noted that it was terminating some lower-level employees, folks closer to the numbers, and the plan.

The 10b case was dismissed in its entirety with permission to replead, which we took advantage of. We tried to bring in the chief accounting officer at that time, along

with a corporate Scienter theory that Your Honor in *Computer Sciences* had addressed. Now, we felt that we had presented arguments that they had not presented.

And ultimately Your Honor, on the second motion to dismiss, dismissed the individual again, the chief accounting officer, but kept in the company on a corporate Scienter theory. So that formed our two claims. The first was a Section 14 for the merger, and the second was the 10b-5 for the class period of financial statements issued prior to the statement against solely the company.

We believe --

THE COURT: Refresh my recollection, the Section 14 ruling where I held that negligence was required, was that novel?

MR. BARZ: Well, there was a split. They argued that it should be a Scienter standard. Because under Section 14 they have 14(a) claims and 14(e) claims. 14(e) claims -- it's a weird statute -- 14(e) claims speak to manipulation and scheme. Language typically associated with fraud. Section 14(a) does not.

So the courts, and we believe the better of the courts, have held that Section 14(a) is a negligent standard which Your Honor held, as well, and followed.

The defendants have argued that it's the same section. Section 14, it makes more sense to apply fraud to

all 14(a) and 14(e), rather than have 14(a) negligence, 14(a) fraud.

THE COURT: All right. Go on.

MR. BARZ: So, at that point in time, we engaged in incredibly hard-fought negligence. The defendants certainly did their jobs to make us jump through every hoop possible, multiple motions to dismiss, and they fought us incredibly hard for the documents.

There was some documents that we felt, that related to the internal investigation, that would really be where the best evidence lie, the best evidence to support our claims. They made us fight at every turn; Judge Nachmanoff worked incredibly hard. Ten motions to compel, we had to file. And Judge Nachmanoff commented at one of the final hearings that it was extremely litigious litigation. We were before the Court almost weekly at one point on motions to compel.

Ten motions to compel, 26 depositions, three experts on complex issues, and ultimately we believe we recovered an excellent result for the class, which is what they cared the most about, and I think it's supported by the lack of objections. There's not a single objector. 115,000 notices went out. No one objected to the $108 million settlement, which is extremely rare. No one opted out.

What you'll find in these cases, sometimes, Your Honor, as I'm sure you're aware, is some plaintiffs, because

our class isn't like a consumer class, right, where it's a bunch of consumers that got too much ice in their coffee, and don't pay attention. Ours tend to consist of a high proportion of institutional investors, folks with in-house counsel often, large pension funds. And if they believe they've got enough money at stake, they'll opt out, and they'll sue the defendants outside the class. We didn't have a single opt-out in this case, which is also rare. And we think that speaks volumes to the absolute support that we've gotten for the --

THE COURT: So the only objection is the New York Fund's objection to the fee?

MR. BARZ: Correct, correct. We did get four exclusions, but they were from individuals, as we noted. And two of them aren't even -- didn't appear to be class numbers because they bought outside the time frame of our class period.

And another one was settling the estate of their father, didn't want to keep it open because they had like half a share. So their recovery was going to be de minimis.

And the third one, we believe, also we put it in footnote 3 of our reply brief, which is Docket 459 on page 4. We identified that three of the four didn't appear to have any damages and the fourth one had maybe half a share at issue.

THE COURT: What page number again?

MR. BARZ: So Docket 459.

THE COURT: I have that, but what page?

MR. BARZ: Page 4, footnote 3.

THE COURT: Oh, yes, I see it.

MR. BARZ: We identify each of the four individuals that sought exclusion. And, as we said, no one complained about the settlement that it wasn't an excellent result. They had their own unique reasons for not wanting to be part of it. For example, wanting to settle an estate and not keep it open for the length of these proceedings.

THE COURT: All right. Go on.

MR. BARZ: So we believe that the classes support for this, plus we've identified in some charts we've submitted, that this $108 million settlement represents about a 30 percent recovery of estimated damages, which is an unusually high recovery for these types of cases. Some of these economists have estimated that class action recoveries for securities fraud are 2 to 3 percent.

If you look at some of the recent cases settled, like the *Genworth* case before Judge Gibney in the Eastern District of Virginia, which was also a securities fraud case, they estimated about 15 percent of damages. So we had twice as good of a recovery in this case.

Even despite the incredibly hard-fought litigation -- I think they had one motion to compel in that

case; we had to go through ten. So we believe that every factor that courts consider for the approval of a settlement, the results achieved, the reaction of the class, all completely support the approval of $108 million.

THE COURT: All right. Let's turn -- I assume if the defendant wishes to add anything, you'll let me know, but I assume you're satisfied with that summary?

MR. ROBERTS: Well, Your Honor, of course, I disagree with the number of aspects of that summary, but in terms of the overall scope of the case, I think it accurately described it.

THE COURT: Well, you wouldn't disagree that it was hard-fought.

MR. ROBERTS: I certainly wouldn't, Your Honor.

THE COURT: All right. Let's turn to the New York Retirement Fund's argument that the fee is excessive. You responded to that in your reply brief, but let's put things in context here.

What was the lodestar figure?

MR. BARZ: So our lodestar was approximately 16.7 million. That's after accounting for the fact that I wrote off about 1500 hours in the exercise of billing judgment. I was a partner of a defense firm, so I've reviewed bills that go out to the defense side. And I try to apply the same types of analysis here. If I look at time and one of my colleagues,

for whatever reason, they were busy and they didn't give an adequate description, I'll write it off. If they spent -- if they came out two nights for a deposition, I think they could have been out one, I'll write off one of the hotel nights. Things that I sort of would apply if I was on the other side.

We believe -- so when you look at our fee --

THE COURT: How many people in a deposition?

MR. BARZ: One or two. You know, I took the deposition of the CEO. I had a colleague along because we had a high volume of paper and that was a critical deposition, but a lot of our depositions were attended by just a person. You know, if you recall, all the hearings I've done here, including the motion to dismiss, those were substantive critical hearings, you saw just me and Mr. Reilly, my local counsel, whose advice I value and thought he was necessary.

I run an efficient ship. I actually gave you some charts because I looked at some recent settlements. And if you look at our hours, 29,000 hours. For example, if you compare that to *Genworth*, they billed 66,000 hours in their lodestar. They had roughly the same number of depositions as us, fewer documents reviewed. They had 3 million pages, we had 4.7 million page to get through. And we had the same number of depositions, ten motions to compel versus one for them, and we had -- so *Genworth* 66,000. It's the most recent securities fraud class action. 66,000 hours. We had 29,000

hours. About half. They had one motion to compel to brief and argue.

THE COURT: Refresh my recollection. Where was that case pending?

MR. BARZ: Judge Gibney in the Eastern District of Virginia.

THE COURT: All right.

MR. BARZ: 2016.

THE COURT: In Richmond.

MR. BARZ: Correct.

They had 66,000 hours reported, we had 29,000. They had one motion to compel to brief and argue, we had ten. They had 3.2 million pages to review, we had 4.7 million pages. Not only did we get the defendant's documents, but we got about 30 third parties, analysts; we did a FOIA to the Government for their records on the contract in the bid, they took 30 depositions, we did 26. So we did, I believe, relative to cases, and I laid these out -- it's our opening brief, Docket 451, page 12. I think we litigated, very efficiently, in terms of what our lodestar was.

I gave you other comparisons, *NII Holdings* and the two cases that Your Honor has had in securities fraud, *MicroStrategy* and *Computer Sciences*. Out of those five cases, we had the fewest number of hours. We had the most number motions to compel. We had the second most number of documents

to review and comparable number of depositions. So we believe we litigated efficiently and the key -- the key, Your Honor, is that we got an excellent result. And we believe that that's what the class cares the most about. Did they get an excellent result? People are happy to pay more for an excellent result than to pay a low fee on a terrible result.

THE COURT: Did you have any ex-antiarrangement with anyone concerning your fee?

MR. BARZ: No. In this case, we did not. So we had a sophisticated lead plaintiff that Your Honor appointed. We also had a second-named plaintiff on the Section 14 claims and our agreement with them was that we would discuss the fee at the end. We discussed the fee, in light of the incredible results, the amount of time it took, the effort, the fact that the case was initially dismissed, and they were comfortable supporting a 28 percent fee. And I believe that's, candidly, I would have wanted 30 or 33 percent. I think would have been supported.

If you look at the *Celebrex Antitrust* case, out of this district, they awarded 33 percent. If you look at Judge Gibney's case, he awarded 28 percent. And I think our results were better, our lodestar was more efficient. And our multiplier is lower than those cases. Judge Gibney recited several cases, in his opinion, that in this district a lodestar multiplier of two to three times your lodestar is

common. Ours is only 1.8.

If you look at your prior decision, Your Honor, in *MicroStrategy*, you approved a lodestar multiplier of 2.6, which, in this case, would have supported a 33 percent fee. But our fee was negotiated with our lead plaintiffs. 28 percent is what they were comfortable supporting. So we put in for 28 percent, and it's only a 1.8 multiplier. Substantially less than the 2.6 you approved.

THE COURT: This will come as no surprise to you, but I received a certain amount of criticism for my decision in MicroStrategy from economists and others who reviewed it at one or another seminar.

All right. Let's look at the New York Pension Fund's objection.

MR. BARZ: So what I would note about their objection is, it's a single objection out of 115,000 notices that went out. They're a sophisticated investor as they state. But notably, they never moved to be lead plaintiff in this case.

So at the beginning of this case, at the outset, they didn't think this case was good enough to pursue, despite what they've said in their objection as having the availability of a number of law firms to do this litigation for them. And notably, we did have another lead plaintiff movant, if you'll remember, Your Honor, we competed for the

case with one other party and that party has not objected to our fee or the result. And I think that's notable.

They took the time to fly out here and make a motion to lead this case, and they have no problem with the settlement. They're not opting out of the case. They don't think they can do better, and they have no problem with our fee. So out of 115,000 notices, we did receive one objection. That objection, by the New York Fund, was recently rejected in another case Walmart, that we cited.

It's devoid of any analysis of the particulars of the case. I think it's contrary to law. They are making a boilerplate objection, it appears, in multiple cases to impose their one-size fits all fee grid in lieu of a court's careful analysis of the particular risks and results achieved in a particular case.

In our reply brief, for example, I gave a comparison, I think this is informative. The fee grid that they're proposing is the one that they claim they used in the *BP* case in order to support a lower fee. Well, that BP case bears no resemblance to this case. And the reason why I say that is that case is a mega fund case where they had $91 billion in market capitalization loss in that case. That's what they alleged, 91 billion.

We had approximately 360 million. Okay. They have 300 times the losses than our case. You know what our

settlement was? 108 million. You know what theirs was? 175 million. Theirs came four years after the company pled guilty. We had no guilty plea.

To the contrary, as Mr. Roberts just reiterated here, they, from the beginning to this day, have denied our claims. And that's why he got up and said, "Well, I don't agree with this summary," because they have steadfastly denied our claims.

In the *BP* case, where the New York Common Fund was lead plaintiff, and said, "Hey look at us, we got a low fee." Well, they got a terribly low recovery, too. They recovered .2 percent, not 1 percent. 1/5th of 1 percent of what they allege to be their damages of 91 billion in that case. We got 30 percent.

Their settlement came after the SEC recovered $525 million from the company for the alleged conduct. There's no SEC recovery in this case. Their settlement came after a guilty plea. Again, there's been no guilty plea here, no suggestion that there's ever going to be, or that there's even an investigation.

Our case fit what the Supreme Court said is that the private bar can be a necessary supplement to the resources to the Government. Right. And that's what we've done here. We've stepped in when the Government has not and gotten an excellent recovery that otherwise would not have been

achieved. In the *BP* case that the New York State Common Fund applied its fee grid to, they have layers of declining fees. The top two tiers don't even apply here. They have a declining fee for recoveries above 500 million and a billion. That was not possible. We didn't have that much damages in this case.

So we think when you compare our results, getting 30 percent of damages and their results, less than 1 percent of damages, it shows why nothing -- no -- no universal fee grid can be applied across the board. And that's why it was rejected in Walmart because Your Honor knows best the particulars of this case.

Let me give you one more example.

In *Genworth*, Judge Gibney's case, he awarded 28 percent on a larger settlement of $219 million. I would argue, you know what made our case riskier than that case, which justified a better result and a better fee for the lawyers in this case than in that case? He didn't get dismissed. You dismissed our 10b case. We had a tougher road to hoe. That case got by the motion to dismiss. Our case we had to dig deep --

THE COURT: Well, the other side of that coin is not a happy one for you, which is to say that money spent in getting the complaint and the right forms so that it went ahead ought not to be awarded. You should have done it right

the first place. That's a contention. I'm not saying that.

But the point is, you spent a good deal of time at the beginning on these threshold motions and you lost some things. So it could be argued that the fee should reflect that as well as what you've won.

MR. BARZ: And I think, in a certain case, that's a valid argument, but I don't think it's in this case. I think Your Honor knows, and I think counsel here would agree with me. This was an incredibly complex case. You're talking about the intersection of nuanced accounting. Percentage of completion accounting.

Now, fortunately I passed the CPA exam before I went to law school, so this is kind of my bailiwick, I like this stuff, I geek out on it. But it's very challenging to present this stuff in a colorable way, and distinguish the line between what is erroneous or negligent accounting, and something that rises above to either that knowing or extremely reckless.

And we also had that issue plus the corporate Scienter, plus the Section 14 appropriate standard. We had very complex legal issues here in this case. And I don't think any court -- Justice O'Connor -- we cited the case out of the Fifth Circuit, when she sat by designation -- you know noted, that plaintiff's attorneys in this particular space of securities fraud class actions, have had to thread a needle,

made smaller over time by judicial decree and legislation. I think all courts recognize this is an incredibly complex and challenging area of the law.

THE COURT: And profitable.

MR. BARZ: When they succeed, absolutely.

We've cited other cases.

Absolutely, Your Honor. But we've cited a lot of cases where we've gone -- *Oracle* we took that case all the way to summary judgment, had millions of dollars invested, and got dismissed at summary judgment. We've cited other cases that have gone to trial and lost. Right. We had a case 16 years that was litigated, went to trial through an appeal, and back. You know you get the benefit of seeing two of us here today. We have over 400 employees in ten offices across the nation. This is what we do. We like what we do. We like our clients. We work hard for our clients, just like Mr. Roberts does for his.

And we'd like to be rewarded similar to the defense bar. They're very highly paid on that side of the fee, as well. We like to recruit talented lawyers that are capable of competing with the exceptional backgrounds of the people we go up against.

THE COURT: All right. Let me ask, is the defendant in the arraignment here yet? He won't know because he's in custody. Can we check with the marshals to see if they've

gone to get him yet?

What I'm going to do is take a recess, do the arraignment, and then complete this matter. But let me check to see whether he's here yet.

Mr. Roberts, do you have anything you want to add to any of this?

MR. ROBERTS: Not at this time, Your Honor.

THE COURT: Do you anticipate that the time will come when you will say something?

MR. ROBERTS: No, Your Honor, not unless you direct a question towards me.

THE COURT: All right. Thank you. You've made me a prophet. I predicted to my law clerks that you would have nothing to say. So I understand that entirely.

I think I do have a picture of this case. I'm sort of curious about one thing. You said there was a split on whether it was scienter or negligence for the Section 14 claim.

Has that issue progressed at all anywhere? It hadn't gone to the Supreme Court, has it gone to a circuit since then?

MR. BARZ: No.

THE COURT: All right.

(A pause in the proceedings.)

THE COURT: The New York objection says -- and I

quote "that after I decide on a reasonable percentage, I hope the Court would also use a lodestar crosscheck."

Actually, I work the other way around. I look at the lodestar first, and then I consider what the multiplier -- what a reasonable multiplier of the lodestar should be, given the complexity of the case, the magnitude of the effort, all of the problems that were involved in it. And, again, the multiplier in this case was 1.8.

MR. BARZ: Correct, Your Honor. Which we've highlighted is lower than the two to three in several cases. And that's the dichotomy we've presented is, our result is exceptional. It's above comparable cases. 30 percent recovery versus 2 percent to 15 percent. And yet our multiplier is less than those same cases. So we've got about --

THE COURT: It's like the *Payment Card* case from the Eastern District of New York, and I don't recall whether you addressed that particular case in your reply.

MR. BARZ: So we did not, but that's the -- the *Interchange* case is a case that we're one of several firms working on. That's a $6 billion settlement. We gave you Enron, which is the largest securities fraud case settlement and that we noted, yes. Their fee grid, which talks about what fee you should get for recoveries over a billion dollars, is it inapplicable to these cases.

For example, in Enron, the Court awarded a 9 percent fee on a $7 billion settlement, but the multiplier in that case was 5.2. So, yeah, as you get into these mega fund cases, where the recoveries are in the billions of dollars, like *Interchange* or *Enron*, you'll see the fee percentage go down, but sometimes you see that multiplier go up in recognition.

THE COURT: All right. Let me ask one more question here. I take your point, but in the interest of the shortness of life, let me focus your attention. In the letter from the Office of the State Controller objecting to the fee. They say that the fund has served as lead plaintiff in cases, securities cases, with large recoveries, including Country Wide and VP.

What fee did they get in those cases?

MR. BARZ: So in -- I'm not sure for Country Wide. In BP, however, both those cases were much larger cases.

THE COURT: Well, certainly Country Wide was, because there the settlement was 624 million, he says. And in *BP* the settlement was a 160- or 75 million. So tell me about *BP* and what fee they got in *BP*.

MR. BARZ: So I -- I'm not positive, but I assume the fee followed their fee grid, and what I did is, in the reply brief on -- I'm -- which is Docket No. 459, Your Honor.

THE COURT: I have it in front of me.

MR. BARZ: Page 8, at the bottom.

THE COURT: I see it.

MR. BARZ: I've given you a chart, which compares that case to our case. In that case, there was potentially $91 billion with a "B" in market capitalization losses. The company had pled guilty to the underlying conduct. The SEC recovered $525 million. And yet, the settlement there was only $175 million. Barely more than ours, despite having 300 times more damages in play, plus a great record to piggy back off of from the government.

THE COURT: Did you compete for lead plaintiff in that case?

MR. BARZ: I don't know if we did, Your Honor.

I personally was not involved in it, but I don't know if one of my colleagues did.

So that's a rather modest recovery that might have warranted a very modest fee. Given that, the case was kind of a slam dunk, particularly to get that kind of a result piggy backing off of the government.

Our case was nowhere near a sure thing. And one other thing I'd like to point out about this New York Common Fund, Your Honor, they filed this early. They had until May 10th to object. This came in in mid-April.

THE COURT: Yes, I know. You made the argument that they waived it, but I'm obviously not going to --

MR. BARZ: Yeah, address it on the merits. But what I think is interesting is this --

THE COURT: I am going to address it on the merits.

MR. BARZ: They're not here today, and they never bothered to respond to our brief, which came in after. And I think that's a little telling, because I think if they really knew the details that we laid out for Your Honor, in terms of the motions to compel, the hard fought nature of the litigation, the excellent recovery, they filed this before they even knew the details surrounding that aspect of it.

And they've yet -- they could have come back and said: Hey, not withstanding that, Your Honor look at X, Y, and Z. But they haven't done that. So I think they're pretty pleased. They didn't opt out. They're not pursuing their own recovery, and I think that's pretty telling, too. They mentioned in here that they've got a number of law firms at their disposable. But apparently, none of them want to try to opt out and do better than we've done and they never moved for leave in the beginning.

So they made this virtually identical, the same letter, just changed the name of the judge and the name of the case in Walmart. And the Court there rejected it , because it's contrary to the approach that courts take, which is to analyze the particulars of a case, not to apply a one-size fee grid across the country.

THE COURT: Thank you.

MR. BARZ: Thank you, Your Honor.

THE COURT: Let me ask Mr. Roberts, briefly. There was a final judgment and order, sketch of one, attached, and I'm sure you've reviewed that.

MR. ROBERTS: Correct, Your Honor.

THE COURT: That, of course, would affect your client. Are you satisfied with the form of that order?

MR. ROBERTS: Yes, Your Honor.

THE COURT: All right. And there's also an order approving a plan of allocation and that, of course, is another one that you don't have a real interest in. You don't have any objection to that one either I take it.

MR. ROBERTS: No objection.

MR. PINTAR: Your Honor, if I could interject for a second. We do have an alternative order awarding attorney's fees and expenses, which just has a very minor change to the penultimate paragraph regarding lead plaintiff awards. If I could hand that up. We have given a copy to Mr. Roberts beforehand.

THE COURT: Paragraph 8, you're changing?

MR. PINTAR: Correct.

THE COURT: All right. What's the change in paragraph 8?

MR. PINTAR: Yeah. At the end, it's the -- let me

just pull up --

THE COURT: It's Pension Trust of Greater St. Louis and the named plaintiff Wayne County Retirement System. And the amount for them was 4,000 and 9,000 respectively. Has that changed?

MR. PINTAR: That part has not changed.

THE COURT: What has changed?

MR. PINTAR: Just after that for reasonable -- I'm sorry, for the time they spent we have inserted or changed that to "for reasonable costs and expenses" so that it properly tracks the language of the statute.

THE COURT: Instead of "for the time they spent," it now reads what?

MR. PINTAR: "For reasonable costs and expenses."

THE COURT: But the amounts do not change?

MR. PINTAR: Correct.

THE COURT: All right. Is he here yet? I'm going to recess this matter, do an arraignment, and take about a 15-minute recess, and then I'll complete this matter.

MR. PINTAR: Your Honor, would you like me to hand up this copy of the --

THE COURT: Yes, please.

MR. PINTAR: Expense order?

THE COURT: Thank you.

MR. PINTAR: Thank you.

THE COURT: Then following that I'll take up, first, the Shahaddah matter and then the Medina against Melon One.

Are counsel here in this case?

(Discussion off the record.)

THE COURT: The Court takes a -- I'll take a 15-minute recess and then do the arraignment, and then we'll proceed to complete the case, the Knurr matter.

Let me ask Mr. Roberts one more thing. I'm fairly clear that I think I've heard everything I need to hear from you, but is there anything you want to add at this point?

MR. ROBERTS: No, Your Honor.

THE COURT: Anything that you-all wish to add that hasn't been said already?

MR. BARZ: No, Your Honor.

THE COURT: Court stands in recess.

(Recess.)

(Court proceedings resumed at 10:39 a.m.)

THE COURT: Call the Knurr case.

THE DEPUTY CLERK: The Court calls Steven Knurr, et al versus Orbital ATK Inc., et al. Case No. 2016-CV-1031.

May I have appearances again for the parties?

THE COURT: Well, that's all right. Counsel are present and prepared to proceed as they were earlier today.

I've been reviewing these documents for some time, and I have some familiarity with the case, of course. I'm

very sensitive to the fee issue on 10b-5 cases. I've listened carefully to criticisms of my past decisions in that regard. So I'm not insensitive to those kinds of criticisms.

In the end, I think, as I said earlier, that the settlement reached here is fair, adequate, sensible, and appropriate. I approved it preliminarily. I will approve it again. It's a reasonable settlement. Could it have been more, perhaps, could it have been less, probably. I don't know. But I think, given the facts that have been presented to me, it is reasonable. It's fair and just. So I will approve it.

I spent more time on the fee, because of what I have indicated to you. I'm very sensitive to criticisms of cases in which judges have approved significant fees above a certain percentage. Here, the fee for $108 million settlement and 28 million is right around -- what is it, 25 percent? It's a little over 25 percent.

MR. BARZ: 28 percent.

THE COURT: 28 percent. Thank you.

And it's roughly 1.8 multiplier of the lodestar figure.

Let me say, that I think the case was fully and appropriately litigated. I did not pay attention to the discovery disputes, because they were fairly and reasonably resolved by the magistrate judge. I thank my lucky stars

everyday that Judge Albert Bryan, who was the chief judge when I came here in the mid-'60s -- '80s, he's really the designer of the so-called "rocket docket." Not the earlier judges, not Judge Hoffman, or Judge Butzner, or Judge Oren Lewis.

Judge Albert Bryan really was the designer, who is still living and quite a wonderful man.

So I didn't pay attention to the discovery. And I did receive a report every now and then, but I think the case was really fully litigated. And Mr. Roberts, I don't have any doubt that you-all made them earn their money in discovery, and that you-all did also a very good job for your client; but I don't have to make that determination. You have to deal with your client on fees. But I did want to say that I think you-all did a very good job. And so did you for the plaintiff.

I have vacillated somewhat, but I'm going to approve the fee request. And I will enter the orders that you have provided, including the substitute order that you have entered today. And to thank you for your service in the court.

I've often said that with first-class lawyers, a monkey could do my job. It's not entirely true, but it's close. The problems I have are when they aren't first-class lawyers. But, of course, you-all had millions at stake. You're collecting 28 million, and I'm sure that -- that will add some furniture to your house in the Hamptons. No, that's

right; you're from Chicago.

MR. BARZ: Yes.

THE COURT: So you don't have a house in the Hamptons.

And you're from San Diego?

MR. PINTAR: That's right, Your Honor.

MR. BARZ: I've got six kids running around. So maybe some education.

THE COURT: That's your fault. There are ways to prevent that.

MR. BARZ: Not if you're Catholic.

THE COURT: And that's quite true, quite true.

All right. I did want to complicate both sides on your behavior in this case. I don't think there was any feeling on the part of the magistrate judge that you-all engaged in petty or unnecessary behavior. It was hard fought and as it should be.

So I'm going to enter the orders and thank you once again for your participation in this case. I hope I see your firm and your firm here again. I will look forward to that.

Thank you.

MR. BARZ: Thank you, Your Honor. We hope you will, as well.

MR. PINTAR: Thank you.

THE DEFENDER: Thank you.

(Discussion off the record.)

MR. BARZ: Your Honor, we appreciate as well the decisiveness and the pace at which this case went on. We appreciate it.

THE COURT: Well, that's largely due to Judge Bryan and the discipline that he set up. I had nothing to do with it. I just did what he -- you know the cases are assigned by computer now. They're randomly assigned.

But when I first arrived here, in the mid-'80s, Judge Bryan assigned the cases. And it was different. He not only assigned them, but he expected them to be done promptly. He took great pride in what had become the rocket docket. As you're aware Mr. Reilly.

MR. REILLY: Yes, Your Honor.

THE COURT: Thank you-all very much. Call the next case, please.

(Proceedings adjourned at 10:47 a.m.)

CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Motion Hearing in the case of the **STEVEN KNURR, versus ORBITAL ATK, INC.**, Civil Action No. 16-CV-1031, in said court on the 7th day of June, 2019.

I further certify that the foregoing 32 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this June 17, 2019.

Tonia M. Harris, RPR
Official Court Reporter